IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

-

WRIT PETITION NO : 12006 of 2004

Between:

P.Narayan Reddy, S/o Pulla Reddy,
R/o Gundla Kunta Village, Peddamudiam Mandal, Cuddapah District

.... PETITIONER

AND

1 District Collector, Kadapah District, Kadapah
2 District Panchayat Officer, Kadapah, Kadapah District
3 District Level Committee for Sand Auctions, rep.by its Chairman, Zilla Parishad, Kadapah District
4 Sri C. Sivanatha Reddy, (Srinivasa Reddy,)
R/o Pedasettipalli, Proddatur Mandal, Cuddapah District
(C.T. is amended as per C.O. Dt. 3.9.2004 in WPMP.No. 17350 of 2004.)

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction, declaring the action of the respondents 1 to 3 in granting extension of sand quarry lease in favour of the 4th respondent for a further period of 60 days by proceedings Roc.No.3184/2002-A2, dated 7-6-2004 as illegal, arbitrary and contrary to A.P.Minor Mineral Concession Rules and consequently direct the respondents 1 to 3 to conduct auction for granting lease hold rights for quarrying sand at Peddasettipalli, Proddatur Mandal, Kadapah District and pass such other order or further orders as are deemed fit and proper.

Counsel for the Petitioner:MR.N.SUBBA RAO

Counsel for the Respondent No1.to 3 : GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.4: Smt.N.Shobha

The Court made the following :

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

Questioning the extension of lease granted to the fourth respondent for quarrying sand for a period of 60 days by proceedings Roc.No.3184/2002-A2, dated 7.6.2004, petitioner filed this writ petition.

2. The contention of the learned counsel for the petitioner is that respondents 1 to 3 were in error in extending the period of lease to the fourth respondent, after the expiry of original period of lease granted to him, instead of calling for fresh tenders.

He relied on **Kolli Butchi Koteswara Rao Vs. District Level Committee** in support of his contention that period of lease cannot be extended by 60 days.

3. The contention of the learned Government Pleader is that in view of the application filed by the fourth respondent for extension of lease, by virtue of powers vested in it by Rule 9L of the A.P. Minor Mineral Concession Rules, 1966 (the Rules), the lease granted to the fourth respondent was extended by 60 days after collecting 10% enhanced rent.

4. The contention of the learned counsel for the 4th respondent is that since Rule 9L of the Rules contemplates extension of lease on payment of 10% enhanced rent, 4th respondent applied and obtained extension of lease for 60 days, but in view of the stay granted by this Court, 4th respondent did not have the benefit of the extended period though he paid away the amount for that period and so he may be permitted to quarry the sand for the expired lease period.

5. I am unable to agree with the contention of the learned counsel for the petitioner that as per the ratio in Kolli Butchi Koteswara Rao ‘s case (1 supra) after expiry of the period of lease, the first extension should be for 15 days only and the next extension only can be for 60 days. If the contention of the learned counsel for the petitioner were to be accepted, it means that there can be an extension of the lease for 75 days even without the prior approval or permission of the Government, when a plain reading of Rule 9L of the rules shows that, it is only the Government that can extend the lease for a period beyond 60 days. In that case, the learned Judge while considering Rule 9L of the Rules, made some observations. The first proviso to Rule 9L of the Rules empowers the District Panchayat Officer to permit the person, whose lease has expired, to continue the quarrying operation on payment of proportionate amount with 10% enhancement not exceeding 60 days. Extension of period of the said 60 days, can only be from the period of expiry of original lease. 15 days period of lease referred to in the main Rule 9L of the Rules does not relate to the person whose lease has expired.

6. In this case, since the District Panchayat Officer extended the period of lease of the 4th respondent for a period of 60 days only as contemplated by Rule 9L of the Rules, respondents 1 to 3 cannot be said to have violated Rule 9L of the Rules. The only grievance of the petitioner is about respondents 1 to 3 not putting up the sand quarrying to auction. From the counter affidavit filed on behalf of respondents 1 to 3, it is seen that they are about to conduct auction afresh.

7. In the above circumstances, the writ petition is disposed of with a direction to respondents 1 to 3 to initiate proceedings for fresh auction and conduct the auction. Meanwhile, they shall permit the 4th respondent to continue the sand quarry operations for the un expired period of lease of 60 days, i.e., the period during which he could not quarry on as a result of the stay granted by this Court. The petition is ordered accordingly. No costs.

_____

C.Y.SOMAYAJULU, J

Dated: 10.03.2005

RAR

To

1 District Collector, Kadapah District, Kadapah
2 District Panchayat Officer, Kadapah, Kadapah District
3 District Level Committee for Sand Auctions, rep.by its Chairman, Zilla Parishad, Kadapah District
4 2 CCs to G.P for Panchayat raj & Rural Development,

High Court Bldgs, Hyderabad (OUT)

5 2 CD copies.

RAR